

PIO COMPLIANCE ASSESSMENT REPORT

BLUE MOUNTAINS CITY COUNCIL

OVERALL ASSESSMENT OF IMPLEMENTATION BY COUNCIL

Council has demonstrated a commitment to both the implementation of the PIO and the Improvement Plans developed in response to the Asbestos and Recruitment investigations. Council has met all significant reporting obligations under the PIO and provided final compliance reports on progress against the Asbestos and Recruitment Improvement Plans.

Council commissioned independent compliance reviews of both the operations of the PIO Project Control Group and high level PIO Improvement Plan compliance. Resourcing of the ongoing implementation of the Improvement Plans has been prioritised and budgetary requirements will be considered as part of the 2018/2019 operational planning process.

Progress against Recruitment Improvement Plan

The McCullough Robertson Report contained seven recommendations ultimately reflected by 21 action tasks in the Improvement Plan.

As at the date of the final compliance report being provided to the Minister (1 August 2018), 13 action tasks had been completed. With respect to eight remaining action tasks, all were on track for completion between 1 October 2018 and 7 December 2018.

Progress against Consolidated Asbestos Improvement Plan

The Consolidated Asbestos Improvement Plan reflects the 30 recommendations from the interim and final Tooma reports (Asbestos investigation) and contains 81 action tasks. As at the date the final compliance report was provided to the Minister (15 August 2018), 20 tasks had been completed, 55 were on track for completion within allocated timeframes, yet to commence or ongoing, and six were at risk of not being finalised within stated completion timeframes. However, a number of “on track” and “at risk” tasks may have been completed following the provision of the final compliance reports to the Minister.

Further, Council notified the Minister on 30 August 2018 of revised end-dates for 12 actions to accommodate competing priorities associated with the SafeWork NSW and EPA investigations, preparations for the Public Inquiry, to ensure ongoing staff training requirements can be met and scheduling of tasks within available resources.

Outcome of public inquiry

The Blue Mountains Public Inquiry Commissioner’s Report was tabled in NSW Parliament on 25 March 2021. There were no adverse findings made in relation to Council’s current asbestos management. A finding was made that, based on an expert view, Council is now on the path to being an exemplar in asbestos management. It was further found that between June 2017 and October 2020 Council’s governing body took all appropriate steps to ensure that the Council properly addressed the asbestos management issues that had come to light.

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COMPLIANCE WITH REQUIRED ACTIONS

ACTIONS	PERIOD FOR COMPLIANCE	STATUS
<p>1. Council identifies and implements measures that strengthen reporting to the governing body which enables Council to give leadership on implementing all recommendations arising from the two independent investigations initiated by Council resolution on 14 November 2017 regarding asbestos management and organisational matters and the investigations being undertaken by SafeWork NSW and the EPA.</p>	<p>The PIO is silent on a compliance timeframe for this action.</p>	<p>ONGOING. Council advised on 28 February 2018 that Councillor briefings had commenced in respect of the Tooma report, and that this briefing process would be detailed, comprehensive and ongoing. It further advised that the briefings will be one mechanism used by Council to confirm full implementation of the recommendations arising from the independent investigations.</p> <p>Council also advised on 12 April 2018 that it had created a written reporting mechanism to facilitate comprehensive monthly reporting to the elected body in respect of progress against each action identified in the Improvement Plans.</p>
<p>2. Following consideration of the recommendations from the investigations, Council develops Improvement Plans which include appropriate milestones. In doing so Council:</p> <p>a. Utilise the services of an appropriately qualified consultant to assist Council in assessing the adequacy or otherwise of the existing system of internal control and reporting to the governing body</p>	<p>^</p>	<p>COMPLIED/ONGOING.</p> <p>a. Council appointed Ian Reynolds as Special Adviser to assist in strengthening ongoing organisational development and cultural change. Council received input on the Improvement Plan developed in response to the McCullough Robertson recommendations from Mr Reynolds and LGNSW's Industrial Officer.</p>

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ACTIONS	PERIOD FOR COMPLIANCE	STATUS
<ul style="list-style-type: none"> b. Provides all necessary resources to ensure the Improvement Plans are fully implemented c. Require for the next 12 months the General Manager to report in writing to the monthly meeting of Council on progress against the Improvement Plans d. Engage accredited experts to provide training to the governing body on its obligations under work health and safety, and environmental protection legislation 		<ul style="list-style-type: none"> b. Council has committed to fully resourcing the implementation of the Improvement Plans. c. Council has put in place a requirement for the GM to report to the monthly meeting of Council on progress against the Improvement Plans. d. Training provided. [see Compliance Report 5]
<p>3. Council ensures that there is an adequate mechanism in place which requires the General Manager to take action so that all concerns and incidents of possible contravention of relevant Work Health and Safety, and environment protection legislation are reported immediately to the relevant agencies and the Minister.</p>	<p>The PIO is silent on a compliance timeframe for this action.</p>	<p>COMPLIED/ONGOING. Consolidated Improvement Plan actions include measures to improve awareness and accountability (1.3 and 4.2), improve reporting culture and procedures (1.5 and 4.7), implement a safety culture program (1.7) and improve communication channels (4.4).</p>
<p>4. The Improvement Plans must be sent to SafeWork NSW and the Environmental [sic] Protection Authority (EPA) for their review. The Improvement Plans must be modified to accommodate any feedback from those agencies.</p>	<p>As developed.</p>	<p>COMPLIED. All Improvement Plans to date have been provided to SafeWork NSW and EPA for review and modified in accordance with feedback. Both agencies advised Council that the issues raised in the McCullough Robertson report were beyond their purview and both agencies declined to provide feedback. [See Compliance Report 4]</p>
<p>5. Council liaises with SafeWork NSW as to whether or not it would be appropriate in the circumstances for Council to give an “<i>Enforceable Undertaking</i>” regulating Council’s ongoing management of asbestos. If is deemed</p>	<p>COMPLIANCE REPORT 1: Council to report to the Minister on the outcome of its liaison with SafeWork NSW by 22 FEBRUARY 2018.</p>	<p>COMPLIED. Council advised the Minister on the due date of the actions taken with respect to its liaison with SafeWork NSW. SafeWork NSW indicated that it would not be appropriate to</p>

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ACTIONS	PERIOD FOR COMPLIANCE	STATUS
appropriate by SafeWork NSW, Council must enter into such an undertaking.		enter into a dialogue with Council about an Enforceable Undertaken while its investigations were ongoing. Council will continue to liaise with SafeWork NSW and to keep the Minister informed of progress.
6. 6. Councillors undertake training on their role and responsibilities as members of the governing body.	COMPLIANCE REPORT 5: Council to report to the Minister on training undertaken by councillors on their role and responsibilities by 22 March 2018	On 5 March 2018 Council advised the Minister that required councillor training had been scheduled over 4 days – 8,9,10 and 22 March 2018. On 4 April 2018 Council provided to the Minister a written report evidencing that required training had been provided to councillors on 8,9,10 and 22 March by LGNSW, EPA and an approved training provider for SafeWork NSW.

COMPLIANCE WITH REPORTING OBLIGATIONS

COMPLIANCE REPORTS	REPORTING TIMEFRAME	STATUS
1. Council reports to the Minister on the outcome of its liaison with SafeWork NSW in regard to the giving of an Enforceable Undertaking.	Report due by 22 February 2018	COMPLIED. (See assessment: Action 5)
2. Copies of all investigation reports must be provided to the Minister.	Reports to be provided to the minister within 7 days of receipt by Council	COMPLIED. Tooma Interim Report 1: Provided to Minister 22 February 2018 Tooma Interim Report 2 – Provided to Minister 5 March 2018. Tooma Interim Report 3: Provided to Minister 28 March 2018.

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COMPLIANCE REPORTS	REPORTING TIMEFRAME	STATUS
		<p>Tooma Final Report: Provided to Minister 6 April 2018.</p> <p>McCullough Robertson Final Report: Provided to Minister on 26 March 2018</p>
<p>3. Council develops and adopts Improvement Plans on the outcome of each investigation.</p>	<p>Plans to be adopted within 4 weeks of receipt of investigation reports</p>	<p>COMPLIED.</p> <p>The Improvement Plan in response to the McCullough Robertson investigation was adopted on 4 April 2018. Following a series of interim Improvement Plans, a consolidated Improvement Plan in response to the final report of the Tooma investigation was adopted on 17 April 2018. The adoption of the Improvement Plans was within 4 weeks of receipt by Council.</p>
<p>4. Improvement Plans and evidence of review by SafeWork NSW and EPA to be provided to the Minister.</p>	<p>Improvement plans and review documentation to be provided within 4 weeks of adoption of the plans</p>	<p>COMPLIED.</p> <p>Council provided to the Minister provisional Improvement Plans in response to the Tooma Interim Reports 1 & 2 and adopted a Consolidated Improvement Plan following consideration of the Tooma Interim Report 3 and Final Report on 17 April 2018. Consolidated Improvement Plan with evidence of review by SafeWork NSW and EPA provided to Minister on 15 May 2018.</p> <p>The Improvement Plan prepared in response to the McCullough Robertson Report was adopted by Council on 4 April 2018 and provided to SafeWork NSW and EPA for review. Improvement Plan with evidence of review by SafeWork NSW and EPA provided to the Minister on 2 May 2018.</p>
<p>5. Council must provide the Minister with a written report on the training undertaken by councillors on their roles and responsibilities.</p>	<p>Report due 22 March 2018</p>	<p>COMPLIED/ONGOING.</p> <p>Initial advice to Minister 5 March 2018. Written report provided 4 April 2018 detailing content and</p>

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COMPLIANCE REPORTS	REPORTING TIMEFRAME	STATUS
		<p>attendance at training held on 8, 9, 10 and 22 March 2018.</p> <p>While the reporting in respect of the training undertaken was late, this is not considered to be significant given the initial report to the Minister within the required timeframe and the staggered scheduling of the required training.</p>
<p>6. Council must provide the Minister with a written report on its progress against the Improvement Plans.</p>	<p>Report due within 2 months of improvement plans being sent to Minister</p>	<p>COMPLIED. Comprehensive progress reports provided to the Minister on 25 May 2018, prior to consideration by Council on 29 May 2018.</p>
<p>7. Council must provide the Minister with a written report on its progress against the Improvement Plans.</p>	<p>Report due within 3 months of improvement plans being sent to Minister</p>	<p>COMPLIED. Compliance report provided to Minister on 11 July 2018.</p> <p>Additional compliance reports: Final report on progress against Recruitment Investigation Plan provided to Minister 2 August 2018.</p> <p>Further compliance report on progress against Consolidated Asbestos Improvement Plan provided to Minister on 14 August 2018. Update with respect to the rescheduling of certain actions provided to Minister on 30 August 2018.</p> <p>NOTE: Additional reports are beyond the reporting obligations under the PIO but prepared to accommodate staged adoption of Improvement Plans.</p>

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IMPLEMENTATION OF IMPROVEMENT PLANS

PROGRESS REPORT	REPORTING TIMEFRAME	COMMENT
2 MONTH PROGRESS REPORT	Progress reports provided to Minister on 25 May 2018 .	Comprehensive compliance tracking information and progress reports detailing actions taken (and proposed) with timeframes in response to the recommendations of both the Asbestos and Recruitment investigations.
3 MONTH PROGRESS REPORT	Progress reports provided to Minister on 11 July 2018 . While these progress reports satisfy the reporting obligations under the PIO, to account for the staged compliance dates across the Improvement Plans, Council proposed to provide an additional compliance report to the Minister on progress against the Recruitment Investigation Improvement Plan by 2 August 2018 and the Consolidated Asbestos Improvement Plan by 15 August 2018 to ensure full compliance with the PIO.	Comprehensive compliance tracking information, actions taken and proposed, with timeframes in response to both the Asbestos and Recruitment investigations as reflected in the Consolidated Asbestos Improvement Plan and Staff Recruitment Investigation Improvement Plan.
FINAL PROGRESS REPORT AGAINST RECRUITMENT INVESTIGATION IMPROVEMENT PLAN	Progress report provided in addition to PIO reporting obligations on 2 August 2018 .	Comprehensive compliance tracking information, timeframes and status provided.
FINAL PROGRESS REPORT AGAINST CONSOLIDATED ASBESTOS INVESTIGATION IMPROVEMENT PLAN	Progress report provided in addition to PIO reporting obligations on 15 August 2018 . Update provided on 30 August 2018 .	Comprehensive compliance tracking information, timeframes and status provided.